



**STATE OF NEVADA
DEPARTMENT OF INDIGENT DEFENSE SERVICES**

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ONSITE VISIT REPORT

Nye County: Tonopah

Visit date: February 15-16, 2022

I. Brief Narrative.

Executive Director Marcie Ryba and Deputy Director Thomas Qualls traveled to Tonopah, NV for an oversight visit, to meet with Justice of the Peace Jennifer Klapper, and contract Public Defender Jason Earnest.

After our visit to Goldfield, we traveled to Tonopah to meet with Judge Klapper. Her courtroom and chambers spaces are currently under construction, in order to build a jury deliberation room. We discussed the current indigent defense plan, as well as her concerns regarding current and future processes. Her first concern was the lack of adequate attorney meeting space convenient to her courtroom. There is one conference room, far away on the other end of the courthouse, that can be used for meetings, if it is not occupied. She believes that it is infrequently used, and that attorneys generally use the hallway to talk to their clients. She does not have access to a jury room currently.

She has great concerns about the 48 hour hearings. Specifically, she states there are problems with the district attorney not showing up for the hearings. Among other things, she believes this is a problem with potentially having to release a defendant who may be a danger to themselves or others.

Judge Klapper also has concerns that the indigent screenings are not being done before defendants appear before her. She states that she appoints the public defender to everyone, at their first appearance, and then sorts it out later if not appropriate.

Judge Klapper is also concerned that the courts in Pahrump take priority over Tonopah. Whenever there are cases set at same time in Pahrump and Tonopah, attorneys routinely call to reschedule their Tonopah court dates, which she believes puts Tonopah defendants at a disadvantage to those in the larger communities. Occasionally, Tonopah judges will even call to encourage her to reschedule her court dates. She currently sees the Public Defender in person three times a month. Otherwise, the attorney appears virtually for 72 hour hearings.

Klapper reports that many attorneys are still wanting virtual court, but now that the pandemic is waning, she would prefer for them to be in person again.

We also discussed the selection process. She prefers that if an attorney is representing a defendant on a case in Pahrump, she would like the same attorney for that Defendant on Tonopah cases. Otherwise, it is difficult for Jason to have to gather all the information about the other cases. It seems screening is an issue in Pahrump, as well. This is likely due to the fact that Nye County's Indigent Defense Plan calls for the Appointed Counsel Coordinator to do the screening, but the county has not yet hired someone for that position. Currently, DIDS is performing the duties of selection and review of fees.

As discussed in our Esmeralda County Report, on February 16, we met with Public Defender Jason Earnest after court in Goldfield. Jason is the contract Public Defender for the towns of Tonopah and Beatty in Nye County, and he also does conflict cases in Pahrump. We spent over an hour with him and discussed a wide range of issues, including his observations and personal experience that Nye County (specifically, Pahrump) needs more indigent defense attorneys. (Jason also serves as Public Defender for Esmeralda County.) As discussed in the Esmeralda Report, Jason is a well-experienced and well-regarded defense attorney in these jurisdictions. He seems to be prepared and makes himself available to the courts, both in person and virtually.

II. Oversight Criteria.

1. Client Communication

- a. As discussed with Judge Klapper, and as we observed, there is one option for a private meeting space in the courthouse, but it is at the opposite side of the courthouse from the courtrooms. Judge Klapper says attorneys just meet in the hall. She has no functioning jury room presently and does not have access to the district court's jury room.
- b. Though the distances he travels are definitely a factor, Jason Earnest appears to have good communication with his clients.
- c. We will follow up on the issue of client surveys with Jason, and make sure he is sending them out or delivering them with the disposition of cases.

2. First Appearances

- a. Jason Earnest is reliable and timely and appears virtually or in person for all hearings.
- b. Judge Klapper has concerns, as set forth in more detail in the report, about the viability of for 48-hour hearings in remote communities such as Tonopah. There has been a discussion of county judges sharing weekend responsibilities for these hearings, she does not believe that Nye County will want to pay judges in other jurisdictions to make these appearances. It is anticipated that attorneys will appear virtually for most 48 hour hearings in Tonopah.

3. Preparedness / Knowledge of Case
 - a. Though we did not witness Jason Earnest in Tonopah, we did the following day in Goldfield. Jason appears prepared and had knowledge of his cases and client's histories. Both Judge Klapper and Judge Johnson had good things to say about Jason and his reliability and preparedness.
4. Investigation / Experts
 - a. When we met with Jason, we discussed several cases in which he intends to use investigators and experts in the near future. There did not appear to be an issue with the availability of fees in either jurisdiction.

III. Next Steps.

1. Jason Earnest appears to be doing a great job as Public Defender. His office has caught up with caseload data entry on LegalServer, but they still need to finish entering attorney time. We will continue to run regular LegalServer reports for both counties, as with all offices, to monitor progress.
2. We plan to visit the communities of Pahrump and Beatty in the near future, more than likely it will be a multiple day visit. We will continue to work with the county to hire a Counsel Administrator / Coordinator, and regarding their updated Indigent Defense Plan, as well as their annual report.
3. We will continue to check in with Jason regarding his needs and his upcoming need for experts and investigators, as well as any other resources.

IV. Photos

1. Conference Room, possible meeting space
2. Justice Court
3. Justice Court
4. Justice Court







